



U.S. Fish & Wildlife Service

ESA Listing for Sea Otters in Southwest Alaska

The numbers of sea otters in southwest Alaska have declined by at least 56 to 68 percent since the mid-1980s. This population of otters occurs in nearshore waters from the Aleutian Islands to Cook Inlet, including waters adjacent to the Aleutians, the Alaska Peninsula, and the Kodiak archipelago. Recognizing the severity of the decline, the U.S. Fish and Wildlife Service is proposing to list the southwest Alaska Distinct Population Segment of northern sea otter as threatened under the Endangered Species Act. The following information was prepared to answer questions that you might have regarding this proposed listing

When will sea otters be listed, and will they be listed as “threatened” or “endangered?”

FWS has published in the Federal Register a proposal to list the southwest Alaska DPS of the northern sea otter as threatened under the ESA. The Service expects to make a final determination on whether to list the DPS within one year of publication of the proposal, as required by the ESA. Information on how the listing process proceeds following publication of a proposal to list can be found at <http://endangered.fws.gov/listing/listing.pdf>. A threatened species (or DPS) is one that is considered likely to become endangered in the foreseeable future. An endangered species (or DPS) is one that is considered to be in danger of extinction throughout all or a significant portion of its range in the foreseeable future.

Under the ESA, a “species” is defined as including any subspecies of a plant or animal, and any distinct population segment, or DPS, of any species or vertebrate fish or wildlife. The basis for identifying a DPS is described in our DPS policy (<http://endangered.fws.gov/policy/pol005.html>), and is explained in the proposed rule.

How can I participate in this process?

When the proposed rule is published in the Federal Register, a 120-day formal public comment period will begin. The



proposed rule provides information on how to submit written comments. The Service will hold public hearings on the proposed rule in southwest Alaska, if requested. Requests for public hearings must be received by the Service within 60 days of publication of the proposed rule.

If the proposed listing becomes final, how will that impact human activities in southwest Alaska?

The ESA and its implementing regulations include some general requirements, prohibitions, and exceptions that apply to threatened and endangered wildlife. If the proposal to list the southwest Alaska DPS of the northern sea otter as threatened becomes final, Federal agency actions would be subject to the consultation requirements under section 7 of the ESA. Under section 7, Federal agencies are required to ensure, in consultation with the Service, that an action they “authorize, fund, or carry out is not likely to jeopardize the continued existence of a threatened or endangered species,” including a subspecies or a DPS.

In addition, the ESA prohibits take of listed wildlife. The Service has issued regulations (50 CFR 17.31) that generally apply these prohibitions to threatened wildlife. If the southwest Alaska DPS of the northern sea otter is listed, these prohibitions on take would come into effect. The ESA defines “take” to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt any of these. However, the Endangered Species Act allows the Secretary of the Interior to issue rules that provide exceptions to the prohibition on take for threatened species. Under current regulations, a “special rule” can be tailored for a particular threatened species, so that take prohibitions would not apply. The special rule would contain the prohibitions and exemptions necessary and appropriate to conserve the species. In addition, the ESA provides for an exemption for Alaska Natives that allows them to continue to conduct traditional subsistence harvesting of sea otters if the DPS is listed.

The proposed rule seeks public comment on activities that are unlikely to result in violations of the take prohibitions of the ESA.

Will critical habitat be proposed?

The proposed rule to list the southwest DPS of the otter as threatened does not include a proposal for designating critical habitat. As explained in the proposed rule, critical habitat is not determinable at this time. As part of the request for public comments on the proposal to list the DPS, the Service is seeking information regarding features and specific areas that the Service should consider for a critical habitat proposal, in the event that the listing becomes final. If the Service does propose critical habitat for the DPS in the future, the public would have an opportunity to comment on such a proposal.



Would listing close commercial fishing in southwest Alaska, similar to what happened with Steller sea lions?

We do not anticipate that listing the southwest DPS of the northern sea otter would result in closure of commercial fishing in southwest Alaska. Steller sea lions are fish eaters, and they congregate in large numbers at specific sites known as haulouts and rookeries but feed in open waters. In contrast, sea otters eat primarily invertebrates that live in shallow waters; and because of the sea otter's dependence on them, sea otters spend the vast majority of their time quite close to the shore. The Alaska Department of Fish and Game recently analyzed its commercial fishing database. The results indicate that the species which otters most often prey upon have little or no commercial interest, and the areas where they live generally do not overlap with those where most commercial fishing occurs.

Are sea otters hunted today?

Yes, to a limited extent. The Marine Mammal Protection Act of 1972 (MMPA) prohibits the "take" of marine mammals, including sea otters. Under the MMPA, take is defined as "hunt, harass, capture, or kill." The MMPA provides an exemption for Alaska Natives, who are allowed to hunt marine mammals for subsistence purposes and to create and sell authentic articles of handicraft and clothing made from marine mammal parts. As noted above, the Endangered Species Act includes a provision that allows Alaska Native residents of coastal villages to conduct subsistence harvesting of sea otters even if the DPS is listed.

Is subsistence hunting a contributing factor in the decline?

Subsistence hunting does not appear to be contributing to the decline of the DPS. Since 1988, the Service has administered a program for monitoring the harvest of sea otters, polar bears, and Pacific walrus in Alaska. This program is known as the marine mammal Marking, Tagging, and Reporting Program (MTRP). Alaska Natives who harvest sea otters are required by law to present each skin and skull to an MTRP tagger within 30 days. Plastic, numbered tags are attached to the skin and skull, and information about the sea otter is recorded and sent to the Service's Marine Mammals Management Office in Anchorage, Alaska. Since the inception of the MTRP, the combined harvest from southwest Alaska villages has averaged fewer than 100 otters per year. For more information about the MTRP, contact Dean Cramer, Wildlife Biologist, at (907) 786-3806.

Will subsistence hunting be affected by this action?

Both the Endangered Species Act and the MMPA have provisions that allow Alaska Natives to conduct subsistence harvesting.

Why would killer whales be eating sea otters?

In a paper published in the October 16, 1998 issue of Science, Dr. James Estes of the U.S. Geological Survey outlined an hypothesis that killer whales may have begun eating sea otters in response to declines in other prey items, specifically harbor seals and Steller sea lions.

Declines in those species are believed to be due to changes in the composition and abundance of forage fish.



If killer whales are the cause of the decline, how does ESA listing address the problem?

Though killer whale predation has been suggested as a possible cause of sea otter declines, this is as yet only a theory and one that is not shared by all sea otter researchers. Killer whales are also protected under the Marine Mammal Protection Act. Regardless of the cause of the sea otter decline, if the DPS is listed, the Service's highest priority is to foster the recovery of the DPS. A final listing of the DPS would subsequently lead to the development of a recovery plan by Federal, State, and local agencies and private groups to describe appropriate conservation measures for the recovery of the DPS. Additionally, Alaska would be eligible for grant funds for management actions promoting the conservation and recovery of the southwest Alaska DPS of the northern sea otter.

U.S. Fish & Wildlife Service
1 800/344 WILD
<http://www.fws.gov>

All Photos by Dr. Randall Davis,
Texas A&M University

February 2004

For more information please contact:
Douglas Burn
907/786 3807
Douglas_Burn@fws.gov

U.S. Fish & Wildlife Service
Marine Mammals Management Office
1011 East Tudor Road
Anchorage, AK 99503

Visit the Marine Mammals home page:
<http://alaska.fws.gov/fisheries/mmm/index.htm>